IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

MACA.No. 714 OF 2003()

OPMV.758/1996 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THODUPUZHA

APPELLANTS/PETITIONERS.

1. P.K.KUNJUPILLAI, S/O.KUTTY
KANNENKARA HOUSE, MARYKULAM KARA,
AYYAPPANCOIL VILLAGE.

2. RETNAVALLY, W/O.KUNJUPILLAI,
P.K. DO. DO. DO.

3. SUJA.K.PILLAI, D/O. KUNJUPILLAI P.K.
DO. DO. DO.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS: RESPONDENTS.

1. LALICHAN, S/O.FRANCIS,
PUZHATHUMMOOTTIL HOUSE, NIRAPPELKADA BHAGAM,
MARYKULAM KARA,
AYYAPPANCOIL VILLAGE.

2. V.V.SASI, S/O.VASUKUTTAN,
VAZHUVELIL HOUSE, UPPUTHARA P.O.
IDUKKI DISTRICT.

3. THE NEW INDIA ASSURANCE CO.LTD.,
REP. BY ITS DIVISIONAL MANAGER,
KOTTAYAM.

BY ADV. SRI.LAL GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN & ANTONY DOMINIC, JJ.

M.A.C.A. NO. 714 OF 2003

DATED THIS, THE 13 TH DAY OF MARCH, 2007.

J U D G M E N T

Antony Dominic, J.

The appellants are the parents and sister of deceased Sujith who met with a fatal accident on 23.2.1996. It is seen that a bus bearing Reg. No. KL-6-3357 driven by the first respondent in a rash and negligent manner, in which the deceased was a passenger, met with an accident in which the deceased suffered serious injuries which ultimately resulted in his death. Thereupon, the appellants filed a claim petition before the Motor Accidents Tribunal, under Section 163 (A) of the Motor Vehicles Act claiming compensation of Rs.4,50,000/-. However, by the impugned award, the Tribunal awarded a total compensation of Rs.2,08,500/-. Towards loss of earning and loss of estate, it is seen that the Tribunal has awarded only Rs. 1,92,000/-. Aggrieved by this, the appellants have preferred this appeal.

2. As we have noticed above, the claim was laid under Section 163 (A) of the Act and if that be so, the Tribunal ought to have accepted and

followed the structured formula as contemplated under Section 163(A) of the Motor Vehicles Act. If that was the basis to be adopted, the claimants would have been entitled to a total compensation of Rs. 4,56,000/- apart from Rs. 2,000/- towards funeral expenses and Rs. 2,500/- towards loss of estate. On the other hand, the Tribunal quantified the compensation and then deducted one third on the basis that if the deceased was alive, he would have spent 1/3 of the income for his own purposes. A further deduction of 1/3 is again made on the basis that the deceased would have got married and spent 1/3 of his income for his family and held that only 1/3 alone would have been spent for his parents and sister. This approach in awarding compensation, in our view, is erroneous and the Tribunal ought to have computed as per the structured formula and quantified the compensation on that basis. According to us, as against the compensation now awarded, the claimants ought to have been awarded Rs. 4,56,000/-.

In the result, we modify the award of the Tribunal and hold that the appellants are entitled for a total compensation of Rs. 4,56,000/- under Section 163(A) of the Act in addition to Rs. 2,000/- towards funeral

expenses and Rs. 2,500/- towards loss of estate. Thus, the appellants are entitled to a total compensation of Rs. 4,60,500/- and deducting Rs. 2,08,500/- already awarded, the appellants are entitled to an additional compensation of Rs. 2,52,000/-. However, since the appellants have limited their total claim to Rs. 4,50,000/- we restrict the balance compensation to Rs. 2,41,500/-. The additional amount awarded by us will carry interest at 7% per annum from the date of petition till date of realisation.

The award of the Tribunal will stand modified as above.

P.R. RAMAN,
(JUDGE)

ANTONY DOMINIC,
(JUDGE)

knc/-